

# Exhibit “1”

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
ADRIANA TIBBETTS and DARRYL  
TIBBETTS, INDIVIDUALLY AND ON  
BEHALF OF ALL OTHERS SIMILARLY  
SITUATED,

**Case No.: 17-cv-00968-LDW-AYS**

Plaintiffs,

-against-

THE CHEESECAKE FACTORY  
RESTAURANTS, INC.,

Defendant.

-----X  
STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF SUFFOLK                 )

Adriana Tibbetts, being duly sworn, deposes and says:

1. I am a Plaintiff in this action, and, as such, I am familiar with the facts and circumstances of this case.

2. On January 22, 2017, my husband Darryl Tibbetts (hereinafter "Plaintiff Darryl Tibbetts") and I dined at one of Defendant's stores, located in the Mall at the Source, 1504 Old Country Road, Westbury, New York 11590 (hereafter referred to as the "Cheesecake Factory Westbury"). To pay for the dinner, I used my Visa credit card. Following the transaction, I received a receipt, which included both the first six numbers and the last four numbers of my Visa credit card.

3. After paying for our meal, my husband and I purchased two slices of cake from the bakery shop of the Cheesecake Factory Westbury. To pay for the slices of cake, I observed

Darryl Tibbetts use his Mastercard credit card. Following the transaction, Plaintiff Darryl Tibbetts received a receipt, which included both the first six numbers and the last four numbers of his credit card.

4. Upon information and belief, credit card and debit card receipts are printed from at least eight cash register terminals at Cheesecake Factory Westbury.

5. Upon information and belief, every terminal of this restaurant establishment has been printing receipts bearing both the first six numbers and the last four numbers of consumers' credit cards and debit cards.

6. I observed first-hand both the merchant copies and duplicate copies of these receipts, bearing the first six numbers and last four numbers of consumers' credit cards, left on the dining table of Cheesecake Factory Westbury.

7. In this regard, I observed first-hand on my dining table a black guest check presenter containing at least two white slips of paper, left behind unattended by the Cheesecake Factory Westbury server from the prior consumers' transaction. Remarkably, the Cheesecake Factory Westbury server had left these receipts unattended on the dining table for at least 20 minutes.

8. I observed that both the merchant copy and the duplicate copy of the receipt from my Visa transaction bore the first six numbers and the last four numbers of my credit card, in violation of FACTA.

9. Cheesecake Factory Westbury servers routinely leave both the merchant copies and duplicate copies of credit card receipts on the customers' dining tables, regardless of whether the customers still remain seated at the dining tables. Cheesecake Factory Westbury servers fail to take any protective measures to safeguard these receipts, leaving them accessible to other

Cheesecake Factory Westbury customers, other servers and employees of Cheesecake Factory Westbury, and other passersby in and around the Source Mall, in which the Cheesecake Factory is located. I observed this very fact first-hand at Cheesecake Factory Westbury when I dined there on January 22, 2017.

10. Upon information and belief, all cash register terminals located in Cheesecake Factory Westbury printed receipts bearing the first six digits of the card number and the last four digits of the card number—in stark violation of the FACTA Receipt Provision.

11. Defendant's negligent, reckless, and willful conduct has caused me to suffer lost time, aggravation, and distress. I now check obsessively and frantically every receipt copy I receive from a merchant to ensure no excessive digits of my credit card are printed thereon. I exhibit stress over the whereabouts of the merchant copies and duplicate copies of the receipt from my transaction and Plaintiff Darryl Tibbett's transaction at the Cheesecake Factory Westbury on January 22, 2017. I no longer feel at ease when using my credit cards and debit cards in commercial establishments.

12. As a result of Defendant's negligent, reckless, and willful conduct, I had to take extra steps and precautions to protect the duplicate copy of the Visa credit card receipt I received from my transaction on January 22, 2017.

13. Accordingly, Defendant's motion to dismiss should be denied in its entirety.

Dated: Huntington, New York  
June 9, 2017

  
ADRIANA TIBBETTS

Signed before me, this 9<sup>th</sup> date,  
June, 2017.

  
NOTARY PUBLIC

Joseph P. Fusco

Notary Public of the State of New York  
Qualified in Nassau County  
LIC# 02F06202386  
Com Expires 3/16/21